

Remarks

Prior to this response, claims 1-2, 5, 8-11, 13-15, 17, 30 and 32 were pending in the application and claims 3-7, 12, 16, 17 and 32 had been cancelled. Claims 25-29 had been withdrawn.

In this response, claims 1, 13 and 31 are currently amended. Claims 18-24 and 31 have been withdrawn by the Examiner in the Office Action of April 26, 2007. Applicant submits that, following the amendment of claim 1, claims 18-24 and 31 can now be rejoined as falling under allowable generic claim 1. Therefore, claims 1-2, 8-11, 13-15, 18-24, 30 and 31 are now pending in the application. No new matter has been added.

Arguments

The Examiner starts the office action by stating that claims 1, 2, 8-11, 13 and 30 are rejected under 35 U.S.C. § 112 first paragraph because they lack proper written description. Particularly, the Examiner states that the claims do not define the nucleotide variation in terms of particular structure or function and that the specification does not disclose and fully characterize the genus required by the claims of any variation in the *UGT1A9* gene, presumably because of the expression appearing in claim 1: "... said variation *comprising*: ...".

On page 7 of the office action, the Examiner has further rejected the claims based on lack of enablement.

In order to advance prosecution of the current patent application, claim 1 has been amended in accordance with Examiner's suggestions to read:

" said method comprising:

- obtaining a nucleic acid sample from said individual; and*
- determining the presence of a T²⁷⁵A substitution in nucleotide sequence of UGT1A9 gene from said nucleic acid sample of said individual;*

whereby the presence of the T²⁷⁵A substitution in said nucleotide sequence is indicative of said predisposition or susceptibility."

This amendment renders moot the rejections under written description and enablement requirement.

Applicant wishes to thank the Examiner for this helpful suggestion.

Claims 13 has been amended to remove the word “a” preceding “cancer”.

Claim 31 has been amended to indicate clearly that the claimed substitutions are identified further to the substitution of claim 1.

It is therefore submitted that the claims are in condition for allowance. Reconsideration of the Examiner’s rejections is respectfully requested and allowance of claims 1-2, 8-11, 13-15, 18-24, 30 and 31 at an early date is earnestly solicited.

An information disclosure statement is enclosed herewith disclosing the references provided in the last response. Applicant wishes these three references to be made of record.

In the event that there are any questions concerning this amendment or the application in general, the Examiner is respectfully urged to telephone the undersigned so that prosecution of this application may be expedited.

The Commissioner is hereby authorized to charge the fee of \$180.00 required for late submission of this Information Disclosure Statement in accordance with 37 CFR 1.97(c), to Deposit Account Number 19-5113. The Commissioner is further authorized to charge any further fees which may be required, or credit any overpayment to the Deposit Account # 19-5113.

Respectfully,

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encl: Information disclosure statement